IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 33593 of 2007(Y)

PETITIONER:

SOUTHERN TRANSPORT COMPANY,
GOWRI NIVAS, GANDHI SQUARE, PETTAH, POONITHURA,
TRIPUNITHURA, KOCHI-682 038, REPRESENTED BY
PARTNER P.N.CHANDRAN.

BY ADV. SRI.P.A.AZIZ
SRI.I.G.MANOHARAN
SRI.N.N.PANKAJAKSHAN

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY (TAXES), SECRETARIAT,
TRIVANDRUM.

2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, COMMERCIAL TAX COMPLEX,
THEVARA, KOCHI-15.

3. INTELLIGENCE OFFICER,
COMMERCIAL TAX CODE NO.1, MATTANCHERY,
AT MINI CIVIL STATION, ALUVA.

BY GOVERNMENT PLEADER SRI.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 33593 OF 2007 Y
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Dated this the 16th day of November, 2007

J U D G M E N T

Against Ext.P1 order imposing penalty on the petitioner, petitioner has filed Ext.P4 appeal before the 2nd respondent. Before the order was communicated, petitioner submits that the bank guarantee furnished by him towards the security was sought to be enforced by Ext.P3. As the threat continued, this writ petition was filed. At that time when the writ petition was moved, since no stay petition was filed by the petitioner along with Ext.P4, I had adjourned the case to today. In the meanwhile, petitioner has produced the stay petition filed by him along with IA 15293/07 and Ext.P5 is the stay application. He has also sought for an early hearing by filing Ext.P6. Petitioner submits that even as on date, the threat of invoking the bank guarantee still remains and therefore he seeks an appropriate arrangement to safeguard his interest as well.

2. Having regard to the fact that Ext.P4 appeal and Ext.P5 stay petition are pending before the 2nd respondent, I dispose of this writ petition with the following directions.

That the 2nd respondent shall take up and consider Ext.P5

stay petition as expeditiously as possible, at any rate within three weeks from today. In the meanwhile, further proceedings for the invocation of the bank guarantee pursuant to Ext.P3 shall be kept in abeyance for a period of one month.

Petitioner shall produce a copy of this judgment before the 2nd respondent for compliance.

ANTONY DOMINIC, JUDGE.

Rp